

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA	:	Case No. 1:14-CR-043
	:	Judge Susan J. Dlott
	:	
vs.	:	<b><u>SENTENCING MEMORANDUM</u></b>
	:	
	:	
GINA KERTH	:	

Defendant Gina Kerth pleaded guilty to Count 1 of the Information, the willful failure to pay withheld taxes in violation of 26 U.S.C. § 7202. The offense arises out of the Defendant's operation of a home health care business called Southwest Home Healthcare. Defendant Kerth operated the company and committed the tax offense with her business partner, Peggy Dossman. Ms. Dossman pleaded guilty to Count 6 of an Indictment and was sentenced before this Court on January 28, 2015. (Southern District of Ohio, No. 1:14-cr-040)

Defendants Dossman and Kerth had repeated problems in paying taxes arising out of their home health care business. During the six quarters at issue, they deducted taxes from their employees' wages without paying the funds to the IRS. The company records show that funds were used to pay for numerous personal expenses, instead of being remitted to the IRS. The company was eventually taken over by Defendant Kerth's brothers, but the tax liabilities at issue stem from the time period before their arrival.

Aside from the taxes set forth in this case, Defendants Kerth and Dossman have accrued significant debts from the business in excess of \$2 million, mostly in the form of tax liens. The debts are set forth in the PSR Supplemental Addendum dated January 28, 2015. The conduct set forth in the charges only includes a portion of the unpaid taxes during a 6-quarter period. For that excerpt of the conduct, the parties agreed in the Plea Agreement that Defendant Kerth owes

\$352,472.77 in restitution to the IRS. The parties originally agreed that the Defendant owes \$6,573.14 to the State of Ohio for other unpaid unemployment insurance taxes, however, that State of Ohio debt has now been paid off and should not be included in the restitution order.

Under normal circumstances, the government might very well request a period of imprisonment for this case given the seriousness of the offense and the overall tax history of the defendants. But, for the reasons described in the PSRs, the government will defer to the Probation Office's recommendation of a noncustodial sentence.

The government does have concerns about the Defendant continuing to work in the health care business. It is reported that Defendant Kerth is no longer responsible for the finances of the business. Whatever sentence is crafted by the Court, the government requests a condition that the Defendant be required to submit employment, financial, and tax information as requested by the supervising officer to verify her claims. Accordingly, the government has no objection to the noncustodial sentence recommended in the PSR Supplemental Addendum, with the only amendment that the Defendant be required to provide adequate financial information regarding her employment, finances, and taxes during the period of probation.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Sentencing Memorandum* was served this 29th day of January, 2015 by the Court's ECF system which provides notice to counsel of record.

s/Timothy S. Mangan  
TIMOTHY S. MANGAN (069287)  
Assistant United States Attorney